

CHAPTER SIX

ACQUISITION REQUIREMENTS MONITORING AND COMPLIANCE REVIEW

General Instructions to Monitoring Staff:

This review should be conducted “on-site” at the local program office and work sites through review of grantee policies and procedures, review of general and case files (the latter selected at random by the Reviewer), interviews of key staff and, as appropriate, inspection of properties and interviews of owners. The issues and concerns identified in this on-site review of the grantee’s acquisition activities should be noted on the Acquisition Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter.

A. GENERAL INFORMATION

Date(s) of On-Site Review: _____

Grantee/Project Name: _____ Program Year: _____

Grant #: _____ Grant Term: _____

Local Staff (or Owners) Interviewed:

Name: _____ Title: _____ Location: _____ Date of Interview: _____ Telephone #/e-mail: _____

B. ISSUES FROM GENERAL PROJECT INFORMATION SUMMARY: *Note: Please refer to Section D of the General Project Information Summary (Chapter One). Any Acquisition issues that emerged from the completion of the in-house review reflected in Chapter One should be addressed through interviews with the local project staff or owners and/or on-site file reviews. These issues can be addressed at the beginning of the monitoring visit, or at whatever point in the monitoring visit the Reviewer feels is appropriate.*

Issues for On-Site Follow-Up	Related Questions/Citations	Grantee Response and/or Resolution
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Additional Instructions to Monitoring Staff:

Real property acquisition requirements and procedures for grantees of the Maryland CDBG Program are those that are generally applicable to all Federally-assisted programs. Per 24 CFR 570.606, the applicable rules are set forth in **49 CFR Part 24 Subpart B**, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended. The purpose of URA includes the following:

- **For Real Property Acquisition:** to encourage and expedite the acquisition of real property by agreements with property owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners, and to promote public confidence in Federal land acquisition practices.

Any project involving acquisition of real property from a private owner, and that uses CDBG funds, is subject to the URA. This is true even if the CDBG funds are funding only a portion of the activity, and even if other funds were used for the acquisition itself.

There are a variety of requirements and sequential steps that grantees must follow to comply with the spirit and the intent of URA. The acquisition compliance monitoring review is intended to assess the grantee's overall practices regarding the management of real property acquisition, and the grantee's handling of specific property acquisition cases. In particular, the Reviewer will assess grantee compliance relative to:

- Proper notification
- Careful explanation to owner of their rights under the process
- Appropriateness of offers and mechanisms for taking title or otherwise acquiring the property
- Accuracy of payments
- Timeliness of activities
- Adequacy of source documentation

Real property acquisition is a relatively rare occurrence in the projects funded by the Maryland CDBG Program, and in most projects involving acquisition only a single case is involved. However, if a project involves multiple acquisitions, the Reviewer should select an appropriate sample size based on the number of property owners affected by the project.

IN-HOUSE REVIEW

The Reviewer should determine if project activities include real property acquisition and, if so, review Requests for Payments to determine the amounts requested for these activities. Ideally, DHCD staff contacted the grantee at the outset of the project to ensure that the grantee is familiar with URA requirements, and have provided the grantee with detailed URA guidelines as well as brochures outlining the rights of property owners. Prior to the on-site monitoring visit, the Reviewer should review the DHCD project files and specifically note when this guidance and any other acquisition-related technical assistance were provided to the grantee.

ON-SITE REVIEW

The on-site review is performed to confirm that the grantee is maintaining adequate records and following proper procedures relative to compliance with the acquisition requirements spelled out in URA and 42 CFR 24. The following are activities that the Reviewer will typically conduct during the on-site review: (continued on next page)

Continued from previous page:

- Ask the grantee to describe its acquisition procedures
- Review the accuracy of grantee information regarding property owner rights
- Ensure related grantee record-keeping is complete, accurate, and secure, and a separate file established for each property owner
- Review the procurement file to ensure appraisers were selected properly (also see Chapter Five – Procurement and Bonding)
- Verify compensation paid through entries made in the grantee’s financial records (also see Chapter Four – Financial Management)
- Review methods and timing of payments
- Compare property payments made to the Fair Market Value established through the independent appraisals
- If more or less than “just compensation” was paid, ensure that the records fully document the rationale for such payments and, if appropriate, waivers were received from the property owner
- Determine if the property owner was given proper notice and an opportunity to appeal
- Determine if the property owner was left with an “uneconomic remnant”
- Interview property owners to ensure that the grantee made them fully aware of their rights and the compensation to which they were qualified

In section C of this chapter (Property Information), the Reviewer should note basic information on the sample of acquisition cases that are being reviewed. In section D (Acquisition Checklist), the Reviewer should provide details regarding the grantee’s compliance with the acquisition requirements for the individual case(s), and relative to the grantee’s overall acquisition procedures and activities.

All issues identified during the on-site review of the grantee’s acquisition procedures or activities should be noted on the Acquisition Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter of the Handbook.

C. PROPERTY INFORMATION:

(Review case files and list basic information here)

	Case#1	Case#2	Case #3
Address of Acquired Property?	_____	_____	_____
	_____	_____	_____
Parcel Number?	_____	_____	_____
Property Use (check if applies)?			
• Single Family Residential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Multi Family Residential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Commercial	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Industrial/Farm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Non-Profit Organization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Other (specify) _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Type of Acquisition (Acquire Title, Lease, or Permanent Easement)	_____	_____	_____
Owner(s) Name and Current Address?	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
Home/Business Telephone Number(s)?	_____	_____	_____

ACQUISITION CHECKLIST		Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
INITIAL NOTIFICATION				
<i>Citation: 49 CFR 24.102(b), last revised 3/2/89 and 2/12/99: Owner shall be notified of grantee's interest in acquiring property at the earliest possible time and of the basic protections that will be provided to the owner.</i>				
1. Determination: Was there an official determination to acquire the property? Date of determination: _____	Yes No	Yes No		
2. Preliminary Notice: Was a preliminary acquisition notice sent to the owner, indicating the grantee's interest in acquiring the property? Date of notice: _____ Was this notice provided in a timely fashion, relative to the grantee determination of an interest in acquiring the property?	Yes No Yes No	Yes No Yes No		
3. Information on Owner's Rights: Is there evidence that the property owner was provided with adequate information on his/her rights under URA at the time of the notice, including appropriate written information (e.g., HUD information booklet explaining basic URA acquisition protections)?	Yes No	Yes No		
DETERMINATION OF FAIR MARKET VALUE				
<i>Citations: 49 CFR 24.102 and 49 CFR 24.103 (last revised 3/2/89, 7/27/92, 11/9/92, 2/12/99): Appraisals are required for properties valued above \$2,500 (unless donation). Regulations provide basic appraisal standards and criteria for appraisal review.</i>				
4. Appraisal: Was an independent appraisal(s) done to establish the fair market value of the property?	Yes No	Yes No	Note if more than one appraisal was conducted, and the reasons why:	

ACQUISITION CHECKLIST	Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
5. Selection of Appraiser: Were qualified, independent appraisers selected by the grantee through a competitive procurement process?	Yes No	Yes No	
6. Invitation to Owner: Is there evidence that the owner (or the owner's designated representative) was given an opportunity to accompany the appraiser(s) during the inspection of the property?	Yes No	Yes No	
7. Acceptable Appraisals: Is each appraiser's analysis and determination of the highest and best use of the property acceptable?	Yes No	Yes No	
8. Comparables: Are the comparable sales and other documentation in the appraisal(s) adequate to determine fair market value? Is each appraiser's analysis of the data and reasoning sound?	Yes No Yes No	Yes No Yes No	
9. Appraisal Review: Did a qualified reviewing appraiser review all appraisals to assure that they met applicable appraisal requirements (and sought necessary corrections prior to acceptance where appropriate)? <i>See 42 CFR 24.104</i>	Yes No	Yes No	
10. Opinion: Are you satisfied with the correctness of the opinions of the appraisers regarding fair market value, and was the grantee's determination(s) and approval of just compensation reasonable?	Yes No	Yes No	If "No", please explain:

ACQUISITION CHECKLIST	Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
<p>14. Negotiation: Is there documentation of sale negotiation?</p> <p>If “Yes”, does the evidence show that the owner was given reasonable opportunity to consider the offer and to suggest modifications to the terms and conditions of the purchase?</p> <p>If the owner suggested modifications, did the grantee consider these suggestions and update its offer?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	
<p>15. Acceptance: Did the owner accept the offer?</p> <p>Date of owner’s acceptance of offer: _____</p>	<p>Yes No</p>	<p>Yes No</p>	
<p>16. Contract of Sale: Is there a negotiated purchase agreement?</p> <p>Date of executed negotiated purchase agreement: _____</p>	<p>Yes No</p>	<p>Yes No</p>	
<p>17. Title Vested: Is there documentation that title to the property was vested in the grantee?</p>	<p>Yes No</p>	<p>Yes No</p>	
<p>18. Expeditious Acquisition: Did the grantee make every reasonable effort to acquire the real property expeditiously through negotiation?</p>	<p>Yes No</p>	<p>Yes No</p>	

ACQUISITION CHECKLIST	Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
EMIINENT DOMAIN AND CONDEMNATION PROCEEDINGS			
<p><i>Citation: 49 CFR 24.102(l) – last revised 3/2/89, 2/12/99: Requires that formal condemnation proceedings be instituted if acquiring by eminent domain.</i></p> <p>19. Condemnation Proceedings: If applicable, does the grantee's documentation include the date that the condemnation proceeding was instituted?</p> <p>Date condemnation proceedings instituted: _____</p>	Yes No	Yes No	
<p>20. Deposit: If acquisition was by condemnation, did the grantee deposit the fair market value of property with the court?</p>	Yes No	Yes No	
<p>21. Additional Eminent Domain Documentation: In cases involving eminent domain did the file contain:</p> <p>21.1 Legislative body authorizing resolution?</p> <p>21.2 A copy of the petition of the court?</p> <p>21.3 A copy of the court judgement?</p> <p>21.4 A copy of any appeal or payment for incidental or litigation expenses?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	

ACQUISITION CHECKLIST	Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
PAYMENT FOR ACQUISITION			
<i>Citations: 49 CFR 24.102(j) and 49 CFR 24.106: Require payment of agreed compensation amount and all reasonable expenses to owner prior to requiring surrender of property.</i>			
22. Payment: Did the owner receive the amount determined to be just compensation for his/her property prior to surrendering the property? If the final acquisition price for the property exceeded the amount offered as just compensation, does the file provide evidence that the final price was reasonable, prudent, and in the public interest?	Yes No Yes No	Yes No Yes No	
23. Settlement Costs: Was a statement of settlement costs in the file?	Yes No	Yes No	
24. Payment of Reasonable Expenses: Did the grantee pay all required settlement costs?	Yes No	Yes No	
25. Proof of Payment: Is there proof of payment (e.g. cancelled checks, etc.)?	Yes No	Yes No	
26. Recorded Deed: Is there proof in the file that the deed was properly recorded?	Yes No	Yes No	
27. Fair Rent: If the grantee permitted an owner or tenant to occupy the acquired property, was the rent charged equivalent to the fair rental value of the property?	Yes No	Yes No	
28. Termination: If acquisition was terminated, did the owner receive a Notice of Intent Not to Acquire?	Yes No	Yes No	

ACQUISITION CHECKLIST	Documentation Indicates General Program Practice Consistent with Acquisition Requirements?	Case # _____	Comments and Description of Documentation or Issues:
DONATED REAL PROPERTY			
<p><i>Citation: 49 CFR 24.102(c): Requirement for appraisal may be waived in case of donation of real property. [Note: If case is not a donation write "N/A" or "Not Applicable" for this set of questions.]</i></p> <p>29. Waiver: For donated property, is there Waiver of Benefits that includes:</p> <p>29.1 Property description?</p> <p>29.2 Evidence that fair market value was established properly?</p> <p>29.3 Signature of the Waiver?</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	<p>Yes No</p> <p>Yes No</p> <p>Yes No</p>	

ACQUISITION REQUIREMENTS

SUMMARY PAGE FOR MONITORING AND COMPLIANCE REVIEW

Instructions to Monitoring Staff:

In the space below, please notes any issues arising from the on-site review of the grantee's acquisition procedures and activities. For any concerns or findings identified during the review, provide amplification as necessary, and specify corrective actions that the grantee must take to resolve issue(s). Also describe the nature of any technical assistance provided during the review. List any follow-up action for the DHCD staff and/or the grantee, and the dates by which such actions must be taken.

Issues/Concerns/Findings (and Relevant Citations):

Necessary Action Steps and/or Resolution (and Deadlines):

Based on the evidence reviewed, has the grantee complied with appropriate acquisition requirements? Yes No

Maryland DHCD Staff Conducting Review: _____

Date Review Completed: _____